

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

WILLIAM THOMAS BUSICK, #84027

PLAINTIFF

VS.

CIVIL ACTION NO. 3:10cv190-WHB-FKB

MIKE HATTEN, ET AL.

DEFENDANTS

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REPORT AND RECOMMENDATION

This matter is before the Court *sua sponte*. On March 8, 2011, certain Defendants filed a Suggestion of Death as to the Plaintiff, William Thomas Busick. See Docket No. 44. On May 5, 2011, the Court entered an Order removing the case from the active docket of the Court and noting that a proper party should file a Motion to Substitute pursuant to Rule 25 of the Federal Rules of Civil Procedure for this matter to continue. See Docket No. 45. Under Rule 25, unless a motion to substitute is made “within 90 days after the service of a statement noting the death [of a party], the action by or against the decedent must be dismissed.” Because the Suggestion of Death was filed on March 8, 2011, the ninety day period for filing a motion to substitute parties expired on or about June 8, 2011. No motion to substitute has been filed in this action. Accordingly, the undersigned recommends that this case be dismissed.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636, Douglass v. United Services

Automobile Association, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

RESPECTFULLY SUBMITTED, this the 21st day of June, 2011.

/s/ F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE